

SENATE BILL 1355

By Bryson

AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 5 and Title 56, Chapter 7, relative to certain insurance coverage for dependents and former spouses.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, is amended by adding the following language as a new, appropriately designated section:

§ 56-7-2365.

(a) Every group policy of accident and sickness insurance offered for sale in this state, which provides coverage for hospital or medical expenses that, in addition to covering the insured, also provides coverage to the spouse of the insured, shall contain a provision to the effect that, upon the death of the insured or upon the entry of a valid decree of divorce between the insured parties, the surviving or divorced spouse and any dependent children shall be entitled to continued coverage under the employer's group policy without evidence of insurability, upon application made to the company within ninety-one (91) days following the date of such death or entry of such decree, and upon the payment of the appropriate premium. Any and all probationary or waiting periods set forth in such continuation coverage shall be considered as being met to the extent coverage was in force under the prior policy. This section shall apply to any policy that covers residents of the state, whether issued or renewed within or without the state.

(b) This section shall also apply to group health policies covering medical and hospital expenses and to group policies issued by a fraternal benefit society, a hospital service nonprofit corporation, a health care corporation, a health maintenance organization, or any other similar entity. This section shall also apply to group health

policies covering full-time and retired employees of the state of Tennessee covered under the provisions of title 8, chapter 27, parts 2 and 7.

(c) Each certificate of insurance issued under a group health policy covered by this section shall set forth the continuation right provided. The provision shall clearly set forth a full description of the continuation right available, including all requirements, limitations, exceptions, the premium required or a brief statement concerning the method of calculation thereof, and the time of payment of all premiums due during the period of continuation.

(d) Benefits paid on behalf of a person covered pursuant to the provisions of this section shall be paid in accordance with any assignment by the divorced or widowed spouse.

(e) In the event of the remarriage of the insured employee, the former spouse shall have the right to continue to receive benefits as required in this section.

(f) The monthly premium charged for such continuation of coverage shall not be greater than one hundred five percent (105%) of the total amount that would be charged if the divorced or surviving spouse were insured by the group health policy as an employee member, and if any dependent children are covered under the continuation authorized by this section, one hundred five percent (105%) of the total amount that would be charged for dependent coverage under the group plan, including any amount that the group policyholder would contribute toward the premium if the divorced or surviving spouse were a current member.

(g) The right to coverage shall terminate upon the earliest of any one of the following events:

(1) The failure to pay premiums or required premium contributions when due, if applicable, including any grace period allowed by the policy; notice of

cancellation of coverage of the divorced or surviving spouse of a member shall be mailed to such person at their last known address, together with notice of the right to reinstate coverage retroactively to the date of cancellation as provided by the policy;

(2) The date that the group plan is terminated as to all group members, except that if a different group plan is made available to group members, the eligible group member or the divorced or surviving spouse shall be eligible for continuation of coverage under the terms and subject to applicable premiums of the new plan;

(3) The date on which the divorced or surviving spouse becomes eligible for coverage under any other group health plan; or

(4) The date on which the divorced or surviving spouse becomes eligible for federal Medicare coverage.

(h) This section shall apply to any group contract or group plan that covers twenty-five (25) or more employees and is entered into or renewed in this state on or after July 1, 2005.

(i)

(1) For the purposes of this section only, unless otherwise authorized by law, an employer may not be required to make any contribution for the premium for coverage of the former spouse.

(2) Premiums shall be paid by the surviving spouse or in the event of divorce by one or both divorcing parties as provided by court order.

(j) A former spouse and any dependent children may elect to proceed with continuing insurance coverage as otherwise authorized by law, instead of under the provisions of this section. In the event a former spouse and any dependent children

elect continuation coverage as otherwise provided by law, at the end of such coverage period, such spouse and children may elect coverage under subsection (a).

SECTION 2. Tennessee Code Annotated, Section 36-5-101, is amended by adding the following language as a new, appropriately designated subsection:

(u) Pursuant to § 56-7-2365, no group policy of accident and sickness insurance offered for sale in this state, which provides coverage for hospital or medical expenses which, in addition to covering the insured, also provides coverage to the spouse of the insured may contain a provision for termination of coverage for a spouse or dependent children covered under the policy solely as a result of the death or divorce of the parties.

SECTION 3. The department of commerce and insurance shall report its findings relative to number of persons covered by insurance pursuant to this act and shall report its assessment of the implementation of such changes, together with recommendations, including any further proposed legislation, to the One Hundred Fifth General Assembly no later than January 31, 2007.

SECTION 4. This act shall take effect July 1, 2005, the public welfare requiring it.